

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SHARONDA PRUITT AND STEVEN
PRUITT,**

Plaintiffs,

V.

STATE FARM LLOYDS AND MATTHEW
BOYDEN,

Defendants.

[illegible]

CIVIL ACTION NO.: _____

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant State Farm Lloyds (“Defendant” or “State Farm Lloyds”), files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446(a), and would show as follows:

I. INTRODUCTION

1. This is an insurance coverage and bad faith case. On or about August 1, 2016, Plaintiffs Sharonda Pruitt and Seven Pruitt (“Plaintiffs”) filed their Original Petition in Cause DC-16-09219 in the 298th Judicial District Court of Dallas County, Texas, initiating a civil cause of action against State Farm Lloyds (“State Farm”) and Matthew Boyden (“Boyden”) (collectively “Defendants”). Exhibit C.

2. Removal is based on diversity jurisdiction because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete diversity between Plaintiffs and Defendants.

3. Plaintiffs allege multiple claims and causes of action against Defendants related to Defendants' handling of an insurance claim submitted by Plaintiffs. Plaintiffs specifically allege breach of contract, non-compliance with Chapters 541 and 542 of the Texas Insurance Code, breach

of duty of good faith and fair dealing, fraud and conspiracy to commit fraud against State Farm Lloyds. As to Defendant Boyden, Plaintiffs assert claims for violations of Chapter 541 of the Texas Insurance Code, as well as fraud and conspiracy to commit fraud. Plaintiffs further allege that Defendants' conduct was committed "knowingly" as that term is defined in the Texas Insurance Code.

4. State Farm Lloyds received the Citation and Plaintiffs' Original Petition by personal delivery on or about August 29, 2016. Exhibits C, E and G. State Farm Lloyds filed its Original Answer on September 16, 2016. Exhibit I.

5. Boyden received the Citation and Plaintiffs' Original Petition by personal delivery on or about September 6, 2016. Exhibit C, F and H. Boyden filed his Original Answer on September 20, 2016. Exhibit J.

6. State Farm Lloyds now files this Notice of Removal based on the grounds asserted herein, and promptly upon the filing of same, is also filing a Notice of Filing Notice of Removal with the state court in which this case was previously pending.

II. GROUNDS FOR REMOVAL

7. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a) because the parties involved are citizens of different states, and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. Complete Diversity Exists Between the Parties.

8. According to Plaintiffs' Original Petition, at the time this action was commenced, Plaintiffs were, and still are, domiciled in Dallas County, Texas. In determining diversity jurisdiction, the state where someone establishes his domicile serves a dual function as his state of citizenship. *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564 (5th Cir. 2011). A person's state of domicile presumptively continues unless rebutted with sufficient evidence of change. *Id.*

“Evidence of a person’s place of residence . . . is prima facie proof of his domicile.” *Id.* (citations omitted). Furthermore, once established, “[a] person’s state of domicile presumptively continues unless rebutted with sufficient evidence of change.” *Id.* Thus, for purposes of diversity of citizenship, Plaintiffs are considered Texas citizens.

9. State Farm Lloyds was, at the time this action was commenced, and still is, a citizen of Illinois. Defendant is a “Lloyds Plan” organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens of Illinois for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members). Exhibit L.

10. Defendant Boyden was, at the time this action was commenced, and still is, domiciled in Oakland, California. Thus, for purposes of diversity of citizenship, Defendant Boyden is considered a California citizen. Therefore, complete diversity of citizenship exists between Plaintiffs and Boyden.

B. Defendant Boyden Consents to Removal.

11. In accordance with 28 U.S.C. § 1446(b)(2)(A), Defendant Matthew Boyden consents to this removal. Exhibit K.

C. The Amount in Controversy Exceeds \$75,000.

12. Additionally, the claims asserted by Plaintiffs exceed \$75,000.00. Plaintiffs’ Original Petition specifically states that Plaintiffs seek “monetary relief over \$100,000” Exhibit C.

III. VENUE

13. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action was pending, the District Court of Hale County, Texas, and a substantial part of the events giving rise to Plaintiffs’

claims allegedly occurred in that district.

IV. PROCEDURAL REQUIREMENTS

14. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1 of the U.S. District Court for the Northern District of Texas, the following exhibits are attached and indexed:

EXHIBIT	DESCRIPTION
A.	Index of Matters Being Filed
B.	Docket Sheet in the state court action
C.	Plaintiffs' Original Petition filed in the 298 th District Court of Dallas County, Texas on August 1, 2016
D.	Civil Case Information Sheet filed in the 298 th District Court of Dallas County, Texas on August 1, 2016
E.	Citation to State Farm Lloyds issued by the District Clerk of Dallas County, Texas on August 23, 2016
F.	Citation to Matthew Boyden issued by the District Clerk of Dallas County, Texas on August 23, 2016
G.	Affidavit of Service pertaining to State Farm Lloyds filed in the 298 th District Court of Dallas County, Texas on August 30, 2016
H.	Affidavit of Service pertaining to Matthew Boyden filed in the 298 th District Court of Dallas County, Texas on September 8, 2016
I.	Defendant State Farm Lloyd's Original Answer filed in the 298 th District Court of Dallas County, Texas on September 16, 2016
J.	Defendant Matthew Boyden's Original Answer filed in the 298 th District Court of Dallas County, Texas on September 20, 2016
K.	Defendant Matthew Boyden's Consent to Removal
L.	Affidavit of Jim Larson
M.	List of Counsel of Record

15. This Notice of Removal is being filed within thirty (30) days of service of the citation and the Plaintiffs' Original Petition, and is thus timely filed under 28 U.S.C. §1446(b). There exists

an actual and justiciable controversy between Plaintiffs and Defendant State Farm Lloyds with regard to the legal issues herein and this controversy is within the jurisdiction of this Court.

16. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders and all other filings in the state court action are attached to this Notice.

17. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same.

18. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of the Notice of Removal will be filed with the District Clerk for the 298th Judicial District Court of Dallas County, Texas promptly after filing of same.

19. Plaintiffs have made a jury demand.

V. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm Lloyds respectfully requests that the above-captioned action now pending in the 298th Judicial District Court of Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully Submitted,

/s/ W. Neil Rambin

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ATTORNEYS FOR DEFENDANT

STATE FARM LLOYDS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served to all counsel of record in accordance with the Federal Rules of Civil Procedure on the 28th day of September, 2016.

Rene M. Sigman
J. Steve Mostyn
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/s/ L. Kimberly Steele

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